16. A polypeptide useful for generating the monoclonal antibody of claim 9 consisting essentially of the amino acid sequence NKPKAAEGLDTQRFSGKRLG (SEQ ID NO:3).

REMARKS

Claims 7, 9 and 13 have been canceled. Claims 1, 8, 11 and 12 have been amended. Claim 16 has been added. Support for claim 16 can be found, for example, at page 8, line 34 of the specification. No new matter has been added by these amendments. The priority information has been incorporated into the application and the dates of deposit have been added to the specification. The specification has been amended to identify the sequences added in the Substitute Sequence Listing. A substitute sequence listing along with a Computer Readable Form of the Sequence Listing is provided to incorporate all of the sequences disclosed in the application. The undersigned hereby states that the Paper Copy and the Computer Readable Form, submitted in accordance with 37 CFR 1.821 are identical. No new matter has been added by this amendment. Consideration of this application in view of the comments that follow is respectfully requested.

A. Rejections under 35 U.S.C. § 112, first paragraph

The Examiner has rejected Claims 1 and 3-6 under 35 U.S.C. § 112, first paragraph. The Application has been amended to recite human CD8+ T cells. Support for human CD8+ cells can be found in the specification, for example, at page 6, line 15. Accordingly, Applicants request that this rejection be withdrawn.

The Examiner has rejected claims 4, 8 and 10 under 35 U.S.C. 112, first paragraph. Applicants have amended the specification to incorporate the date of deposit of hybridoma cell lines HB-12441 and HB-12657. That said, Applicants disagree that cell lines HB-12441 and HB-12657 are essential to the claimed invention *per se*. The specification teaches those of skill in the art to prepare monoclonal antibodies to meet the limitations of claim 1 and provides two examples. These examples are HB-12441 and HB-12657. The presence of a deposit alone cannot be viewed as an admission that the deposit is required for fulfilling the requirements of 35 U.S.C. § 112

The deposits, made under the terms of the Budapest Treaty, will be irrevocably and without restriction or condition released to the public upon the issuance of a patent in order to satisfy the deposit requirements of this application. The deposit will be maintained in a public depository for a period of 30 years after the date of deposit or 5 years after the last request for a sample or for the enforceable life of the patent, whichever is longer. Applicants request that this rejection be withdrawn.

B. Rejection under 35 U.S.C. § 102

The Examiner has rejected Claims 7 and 9 under 35 U.S.C. 102(b) as anticipated by VandeVegt *et al.* (*J. Exp. Med.* 177:1587-1592, 1993). Claims 7 and 9 have been canceled. Claim 8 has been amended and rewritten in independent form.

The Examiner has further rejected claims 11 and 12 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,645,837 to Jameson et al. Applicants have amended claims 11 and 12 to include the language "consisting essentially of" and "consisting" respectfully. Applicant has deleted the laboratory designation

"CD8-3" because Applicant agrees that the term does not add or detract from the sequence or structure of the subject polypeptide. Applicant has corrected the sequence to accurately reflect the CD8-3 sequence as provided in the specification at page 8, line 30. For these reasons, Applicant requests that the rejection be withdrawn.

The Examiner has also rejected claim 13 under 35 U.S.C. § 102(b) as anticipated by Whiteside, et al. Claim 13 has been canceled.

CONCLUSION

Applicants have made every effort to diligently address the Examiner's concerns. Therefore, Applicants request that these rejections be withdrawn and the case be passed to issuance. Should the Examiner have any questions he is invited to contact the under signed at the telephone number provided below.

Respectfully submitted,

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VERSION TO SHOW CHANGES MADE

IN THE SPECIFICATION

The first paragraph to show a chain of priority has been added.

At page 5, line 1, paragraph 1 has been amended to read:

-- The hybridoma cell lines designated 37B1 and 8G6 were deposited on December 11, 1997 and March 4, 1999 respectively pursuant to, and in satisfaction of, the requirements of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20010-220009 under ATCC Accession Nos. HB-12441 and HB-12657, respectively.--

At page 7, line 2 the paragraph has been amended as follows:

-- Such first antibodies include, but are not limited to, the monoclonal antibodies produced by the hybridoma cell lines 37B1 (ATCC Accession No. HB-12441) and 8G6 (ATCC Accession No. HB-12657). Conditions which permit these antibodies to bind to but not activate $CD8^+$ cells are well known in the art. These conditions [are described] include, for example, a suitable buffer such as Ca2+ and Mg2+-free Dulbecco's Phosphate Buffer Saline (DPBS) containing 1% Human serum Albumin (HAS) and 0.2% sodium citrate and gentle mixing by "end over end" rotation on a rotator set at 4 rpm.--

A number of sequence numbers have been added to the specification.

IN THE CLAIMS

Claims 7, 9 and 13 have been canceled and claim 16 has been added.

The following claims have been amended as follows:

1. (Twice Amended) A method of isolating human CD8+ cells which comprises the steps of

(a) contacting a sample of isolated peripheral mononuclear blood cells with a first antibody which specifically binds to the sequence AAEGLDTQRFSG (SEQ ID NO:1) or portion thereof, on CD8 molecules present on the surface of human CD8+ cells but does not activate the CD8+ cells once bound thereto, under conditions permitting the formation of a first complex between the CD8+ cell and first antibody;

(b) separating from the sample any first antibody not present in the resulting first complex;

(c) contacting the sample with a second, immobilized antibody which specifically binds to the first antibody in the first complex, under conditions permitting the formation of an immobilized second complex between the first complex and the second antibody, thereby immobilizing the CD8+ cells present in the sample;

(d) separating from the resulting immobilized second complex the cells present in the sample which were not immobilized in step (c);

(e) contacting the immobilized second complex under suitable conditions with an agent which causes the dissociation of the second complex into CD8+ cells and an immobilized third complex between the first antibody and second antibody; and

(f) separating the immobilized third complex from the CD8+ cells, thereby isolating the CD8+ cells.

8. (Amended) The hybridoma cell lines [of claim 7, wherein the hybridoma cell line is selected from the group consisting of the cell line] designated 37B1 (ATCC Accession No. HB-12441) and [the cell line designated] 8G6 (ATCC Accession No. HB-12657).

11. (Twice Amended) A polypeptide useful for generating the monoclonal antibody of claim 9 consisting essentially [of which comprises] the amino acid sequence AAEGLDTQRFSG (SEQ ID NO:1).

12. (Twice Amended) The polypeptide of claim 11 wherein the polypeptide [is the polypeptide designated CD8-3 and having] consists of the amino acid sequence AAEGLDTQRFS[G] (SEQ ID NO:[1]2).